



07 JAN 2005

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P.O. Box 1450
ALEXANDRIA, VA 22313-1450
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Gibson, Dunn & Crutcher, LLP
1801 California Street, Suite 4100
Denver, CO 80202

In re Application of
CURTIS, Keith Edwin, et al.
Application No.: 09/720,570
PCT No.: PCT/AU99/00511
Int. Filing Date: 24 June 1999
Priority Date: 24 June 1998
Attorney Docket No.: 3128/FBR
For: VIRTUAL EPROM SIMULATOR
APPARATUS

DECISION ON

PETITIONS UNDER

37 CFR 1.47(b)

AND

37 CFR 1.137(b)

This is a decision on applicants' "Renewed Petition Under 37 CFR §1.47(b) and 37 CFR 1.137(b)," filed in the United States Patent and Trademark Office (USPTO) on 22 November 2004.

BACKGROUND

On 24 June 1999, applicants filed international application PCT/AU99/00511, which claimed a priority date of 24 June 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 29 December 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 24 January 2000, within nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 26 December 2000 (24 December 2000 was a Sunday and 25 December 2000 was a holiday).

On 21 December 2000, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 12 March 2001, the USPTO mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 30 May 2002, the Office mailed a Notice of Abandonment indicating the application went abandoned for failure to timely reply to the Notice to File Missing Parts mailed 12 March 2001.

On 23 July 2002, applicants submitted the initial petitions under 37 CFR 1.137(b) and 37 CFR 1.183, which were accompanied by a statement from Shahan Islam.

On 22 October 2002, the Office mailed Decision On Petitions Under 37 CFR 1.183 and 37 CFR 1.137(b) dismissing applicants' petitions without prejudice. The decision set a two (2) month period for a proper reply, running from the mail date of that decision, with extensions of time available under 37 CFR 1.136(a).

On 31 July 2003, applicants filed a second petition to revive, along with a petition under 37 CFR 1.47(b).

On 30 September 2003, the Office mailed Decision On Petition Under 37 CFR 1.137(b) dismissing applicants' petition without prejudice.

On 23 December 2003, applicants submitted a renewed petition along with a petition and fee for one month extension of time.

On 12 February 2004, the Office mailed Decision On Petition indicating that the requirements of a petition under 37 CFR 1.137(b) had been satisfied, but that the application would remain abandoned pending satisfaction of the requirements for a petition under 37 CFR 1.47(b).

On 12 April 2004, applicant submitted a renewed petition under 37 CFR 1.47(b).

On 15 June 2004, applicant submitted a copy of the 12 April 2004 petition by facsimile.

On 22 September 2004, the Office mailed Decision On Petitions, dismissing applicants' petition under 37 CFR 1.47(b) for insufficient showing of proprietary interest.

On 22 November 2004, applicants submitted this renewed petition.

On 23 December 2004, applicants submitted a declaration.

DISCUSSION

Petition to Revive

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) the required reply, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995). Pursuant to 37 CFR 1.137(b)(3), additional information may be required where there is a question whether the delay was unintentional.

Items (1), (2), (3) and (4) were previously satisfied.

Petition Under 37 CFR 1.47(b)

A petition under 37 CFR 1.47(b) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, (4) an oath or declaration by the 37 CFR 1.47(b) applicant on behalf of and as agent for the non-signing inventor, (5) proof that the 37 CFR 1.47(b) applicant has sufficient proprietary interest in the application, and (6) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

Items (1), (2), (3) and (6) were previously satisfied.

Items (4) and (5) has now been satisfied. The declaration complies with 37 CFR 1.497(a)-(b) and 37 CFR 1.47b). Applicants have furnished a filing receipt linking the attorney docket number "2597/NU" to the priority application of the PCT. A review of the priority application reveals that the specification of the priority application and this application are the same and that this application is identified by "2597/NU."

CONCLUSION

For the above reasons, applicants' petitions under 37 CFR 1.137(b) and 37 CFR 1.47(b) are **GRANTED**.

As provided in 37 CFR 1.47(b), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

A notice of the filing of the application under 37 CFR 1.47(b) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including accordation of a date under 35 U.S.C. §§371(c)(1), (c)(2) and (c)(4) of **23 December 2004**.



Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459



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Eugene Bond
6329 Lena King Avenue
Las Vegas, NV 89120

In re Application of
CURTIS, Keith Edwin, et al.
Application No.: 09/720,570
PCT No.: PCT/AU99/00511
Int. Filing Date: 24 June 1999
Priority Date: 24 June 1998
Attorney Docket No.: 3128/FBR
For: VIRTUAL EPROM SIMULATOR APPARATUS

Dear Mr. Bond:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459

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Keith Edwin Curtis
138 Park Ridge Lane
Henderson, NV 89015

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CURTIS, Keith Edwin, et al.
Application No.: 09/720,570
PCT No.: PCT/AU99/00511
Int. Filing Date: 24 June 1999
Priority Date: 24 June 1998
Attorney Docket No.: 3128/FBR
For: VIRTUAL EPROM SIMULATOR APPARATUS

Dear Mr. Curtis:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(b) and 35 U.S.C. 118. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Erin M. Pender
Attorney Advisor
PCT Legal Administration

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